



Since 1983

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. P2-15

**PETITION OF THE NATIONAL CUSTOMS BROKERS AND FORWARDERS
ASSOCIATION OF AMERICA, INC. FOR INTIATION OF RULEMAKING**

COMMENTS OF BDG INTERNATIONAL, INC.

I am Lisa Victoria Waller, VP & Co-Principal of BDG International, Inc. (NVOCC: Seagull Express Lines) .

BDG International, Inc. (Seagull Express Lines) is an NVOCC and freight forwarder license numbers 3447 (NF3447), located at 840 Tollage Rd Elgin IL 60123 having one office overseas in India and the other locations are non – related agents world wide.

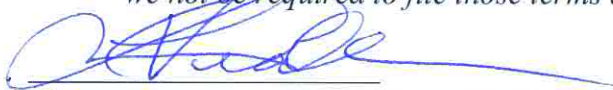
We have chosen to use the Negotiated Rate Arrangements (NRAs) and our NVOCC vendors utilize the Service Arrangements (NSAs). We thank the Commission for having issued the exemption. We have been able to manage or rates more effectively, provide accurate pricing to the client, streamline our process and reduce rate filing costs. We have applied the money savings to a better pricing system internally in order to provide clients more competitive pricing and faster replies to their requests.

We would like to make an official request for the Commission to consider the NCBFAA's Petition requests that the FMC end the current limitations on what can be in an NRA. Currently, an NRA cannot include topics such minimum volume commitments, liquidated damages, credit terms, service standards or guarantees, surcharges, demurrage/free time, etc, but can only provide base rates. Moreover, NRAs cannot be amended during their term. The reason for this restriction was that the FMC thought that there could be confusion between NRAs and NSAs. If you believe that these restrictions are unnecessary or inappropriate, some of the reasons that you might wish to cite for that position could include the following:

1. *These restrictions make it more difficult to record the complete nature of the economic arrangements the company enters into with its customers. In addition to base rates, both the company and its customers often want to address issues such as agreed upon minimum volumes, surcharges, and credit terms. Not being able to cover those issues in an NRA means that we either have to enter into a far more formal NSA or somehow incorporate those additional terms into our rules tariffs. But NSAs are more difficult to use, since they have to be filed with the FMC and we have to publish an essential terms tariff, both of which are cumbersome and expensive. And, somehow putting these terms in a rules tariff is difficult to arrange. Worse, if the terms are put in a rules tariff, they have to be made available to all shippers, not just the customer with whom the NRA was negotiated.*
2. *As long as both the company and its customer have negotiated these other terms and have appropriately recorded them in writing, as is required for the base rates, it is difficult to understand why the NRA is not an appropriate mechanism to memorialize the entire arrangements we have negotiated. The Commission agreed, when granting the NRA exemption, that NVOCCs and their customers could be trusted to deal with each other more informally when it came to the rates that were being negotiated.]*

[With respect to NSAs, a few words about the difficulty in using them as an NVOCC would be helpful. In that regard, you might want to say something such as:

1. *We find that using NSAs is far more difficult than using NRAs, so we tend not to use them. For example, NSAs are required to be filed with the FMC and we have to publish the essential terms in our tariff. Frankly, it is just easier not to do this at all and rather rely on NRAs and our rules tariff, even if we negotiate items other than just the freight rates in our discussions with customers.*
2. *In addition, all amendments to NSAs have to be separately filed with the Commission. However, given the number of carriers we move cargo with and the constantly changing rates, it is almost impossible to go through the effort of keeping amendments up to date. Again, that is a good reason for us not to bother with NSAs.*
3. *Since we are able to privately negotiate rates with our customers without publishing them in a tariff, it is difficult to understand why other economic terms that we also negotiate have to be treated differently and filed as NSAs. That is especially the case since it is not clear why filing NSAs benefits anyone. Accordingly, we support the NCBFAA's petition and request that the Commission permit NRAs to cover any terms that NVOCCs negotiate with their customers and that we not be required to file those terms as NSAs.]*



Lisa V Waller, CHB, VP, Co - Principal
BDG International, Inc.

05/06/2015

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Chicago & Delhi

IATA - CHB - FMC - CTPAT - NVOCC

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